

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA

v.

ALEXANDA AMON KOTEY,

Defendant.

Criminal No. 1:20-CR-239

Hon. T.S. Ellis III

CONSENT MOTION TO CONTINUE SENTENCING

Defendant Alexandra Amon Kotey, through undersigned counsel, respectfully moves the Court to continue the sentencing hearing scheduled for March 4, 2022. The government consents to the relief sought in this Motion. As grounds for this Motion, Mr. Kotey submits the following:

1. On October 6, 2020, Mr. Kotey was charged in an eight-count Indictment with Conspiracy to Commit Hostage Taking Resulting in Death, in violation of 18 U.S.C. § 1203 (Count 1); Hostage Taking Resulting in the Death of James Foley, in violation of 18 U.S.C. §§ 1203 and 2 (Count 2); Hostage Taking Resulting in the Death of Kayla Jean Mueller, in violation of 18 U.S.C. §§ 1203 and 2 (Count 3); Hostage Taking Resulting in the Death of Joel Sotloff, in violation of 18 U.S.C. §§ 1203 and 2 (Count 4); Hostage Taking Resulting in the Death of Peter Edward Kassig, in violation of 18 U.S.C. §§ 1203 and 2 (Count 5); Conspiracy to Murder United States Citizens Outside of the United States, in violation of 18 U.S.C. § 2332(b)(2) (Count 6); Conspiracy to Provide Material Support to Terrorists Resulting in Death, in violating of 18 U.S.C. § 2339A (Count 7); and Conspiracy to Provide Material

Support to a Designated Foreign Terrorist Organization Resulting in Death, in violation of 18 U.S.C. § 2339B.

2. On September 2, 2021, Mr. Kotey pleaded guilty to all eight counts pursuant to a plea agreement. Sentencing is currently scheduled for March 4, 2022.

3. Despite diligent efforts by counsel for Mr. Kotey, additional time is necessary to prepare the sentencing submission. As a result of the emergence of the Covid-19 Omicron variant (SARS-CoV-2 variant B.1.1.529), the Alexandria Detention Center (ADC) limited and then ceased all professional visits. While counsel had some communications with Mr. Kotey by phone, those contacts were infrequent and not conducive to the types of conversations necessary to prepare a sentencing submission. As well, the defense has engaged third parties to assist in preparation for sentencing, which also has been substantially delayed by the difficulties communicating with ADC inmates due to COVID restrictions.

4. Moreover, the government expects that there will be significant victim impact testimony at Mr. Kotey's sentencing. In addition to the families of Messrs. Foley, Sotloff, Kassig and Ms. Mueller, counsel expect the living victims to address the Court. Many of these same families and individuals are also likely to testify in the trial of Mr. Kotey's co-defendant, El Shafee Elsheikh, which is scheduled to begin on March 29, 2022. Some of the families and individuals reside in the United States while others live abroad, including in the United Kingdom and numerous other countries around the world. Continuing Mr. Kotey's sentencing would be intended to minimize the number of times these victims and families would have to travel to appear in court hearings in this matter, particularly at this time given the recent increase in positive COVID-19 cases. Moreover, General Order 2022-01, issued by the Court on January 7, 2022 in response to the Omicron variant, currently requires all international

travelers to quarantine for seven days after traveling prior to entering the Courthouse.¹ Continuing Mr. Kotey's sentencing to a date following the conclusion of Mr. Elsheikh's trial would relieve travel burdens on the victims and their families, particularly given that they would have to travel within weeks apart if the current sentencing date is maintained – an issue that was not contemplated in September 2021 when Mr. Kotey's sentencing date was scheduled prior to the Omicron outbreak and Mr. Elsheikh's trial being continued from January 18, 2022 to March 29, 2022.

5. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED].

6. Counsel respectfully submit that the aforementioned circumstances justify a postponement of Mr. Kotey's sentencing hearing. The parties are available on May 20, 2022 or a date after July 20, 2022.

Accordingly, for the foregoing reasons, the parties respectfully request that the Court continue Mr. Kotey's sentencing from March 4, 2022 until May 20, 2022, or a date thereafter that is convenient to the Court.

¹ See <https://www.vaed.uscourts.gov/sites/vaed/files/Gen%20Order%202022-01%20-%20Updated%20Public%20Entry%20Notices%20with%20Exhibits.pdf>

DATED: February 7, 2022

Respectfully Submitted,

/s/ Marc Eisenstein

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